

HOUSE No. 62

By Mr. Straus of Mattapoisett, petition of William M. Straus for legislation to further regulate contributions and disclosure under the campaign finance laws. Election Laws.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT TO FURTHER REGULATE CONTRIBUTIONS AND DISCLOSURE UNDER
CAMPAIGN FINANCE LAWS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Paragraph (2) of subsection (b) of section 18C of
2 chapter 55 of the General Laws, as appearing in the 2000 Official
3 Edition, is hereby amended by striking out, in line 15, the figure
4 “\$25,000” and inserting in place thereof the figure “\$5,000”.

1 SECTION 2. Chapter 55 is hereby amended by inserting after
2 Section 6B the following:

3 Section 6C. (a) A ballot question committee, required by
4 Section 18 to file reports with the director, that makes an expendi-
5 ture in connection with any literature or advertisement to support
6 or oppose a ballot question or questions shall disclose in such lit-
7 erature or advertisement the four largest of its contributors as of
8 the time the literature or advertisement is printed, recorded or oth-
9 erwise produced for dissemination. If a ballot question committee
10 has fewer than four contributors at such time, the committee shall
11 disclose all contributors on such literature or advertisement.

12 (b) If an out-of-state contributor or out-of-state group, organi-
13 zation, or other entity is one of the four largest contributors to a
14 ballot question committee disclosed pursuant to subsection (a), the
15 ballot question committee shall clearly identify such contributor
16 as an out-of-state contributor on its literature or advertisement in
17 support of or in opposition to a ballot question or questions.

18 (c) Contributors that make contributions to more than one
19 ballot question committee that support or oppose the same ballot
20 question shall notify each ballot question committee to whom they
21 contribute at the time of the contribution of the cumulative total of
22 such contributions made to all ballot question committees. Cumu-
23 lative totals must be disclosed by each ballot question committee
24 that receives contributions from the same contributor if the cumu-
25 lative total is to be disclosed pursuant to subsection (a).

26 (d) Any disclosure statement required by this section shall be
27 printed clearly and legibly in a conspicuous manner in type at
28 least as large as the majority of the printed text. If the communi-
29 cation is broadcast on radio, the information shall be spoken at the
30 end of the communication. If the communication is broadcast on
31 a telecommunications system, the information shall be both
32 written and spoken at the end of the communication, except that if
33 the disclosure statement is written for at least five seconds of a
34 thirty second advertisement broadcast or ten seconds of a sixty
35 second advertisement broadcast, a spoken disclosure statement is
36 not required. If the communication is broadcast on a telecommu-
37 nications system, the written disclosure statement shall be printed
38 in letter equal to or larger than four percent of the vertical picture
39 height.

40 (e) Subsection (a) does not apply to bumper stickers, pins, but-
41 tons, pens and similar small items on which the statements
42 required in subsection (a) cannot be conveniently printed or to a
43 communication by a membership organization solely to its mem-
44 bers and their families.

45 (f) A ballot question committee shall change future literature
46 and advertisements to reflect any change in funding sources that
47 must be disclosed pursuant to subsection (a).

48 (g) This section only applies to literature or advertisements the
49 contents of which are more than fifty percent devoted to one or
50 more ballot question or questions.

51 (h) Any committee that violates this section is liable in a civil
52 action for a civil penalty of three times the total cost of the litera-
53 ture or advertisement. A contributor who does not notify the
54 ballot question committees to which the contributor has con-
55 tributed in accordance with paragraph (c) of this section is liable
56 for a civil penalty of three times the amount contributed. Such

57 civil actions may be brought by the attorney general, district
58 attorney, as appropriate, or by any other person.

59 (i) For purposes of this section “Advertisement” means general
60 public advertisement through the print or electronic media, signs,
61 billboards, direct mail, or computerized electronic mail.

1 SECTION 3. (a) Section 1 of Chapter 55 is hereby amended by
2 inserting the following definition: “Late candidate contribution”
3 is a contribution to those candidates and candidate committees
4 who are required to disclose their contributions pursuant to
5 section 18C of this chapter, including a loan, that (a) totals \$500
6 or more from any contributor that is received by a candidate or
7 candidate committee; and (b) is received by a candidate or candi-
8 date committee for state senator or state representative in the 17
9 days immediately preceding the election in which the candidate’s
10 name appears on the ballot and ending on the day the election is
11 held for such candidates; or (c) is received by a candidate or can-
12 didate committee for governor, lieutenant governor, state secre-
13 tary, attorney general, state treasurer and receiver general, auditor,
14 governor’s council, county office, or mayor required to designate
15 a depository in accordance with section 19 beginning September 1
16 immediately preceding the primary or beginning October 16
17 immediately preceding the general election, through primary or
18 election day respectively on which the candidate’s name appears
19 on the ballot.

20 (b) Section 1 of Chapter 55 is hereby amended by inserting the
21 following definition: “Late ballot question committee contribu-
22 tion” is a contribution to a ballot question committee which is
23 required to disclose its contributions with the Director pursuant to
24 section 18C of this chapter, including a loan, that (a) totals \$1,000
25 or more from any contributor that is received by a ballot question
26 committee; and (b) is received beginning October 16 through the
27 day that the election is held in the year in which the question
28 appears on the ballot.

29 (c) Section 18C of Chapter 55 is hereby amended by inserting
30 the following section:

31 (j) (1) Each candidate, candidate’s committee or ballot question
32 committee that receives a late candidate contribution or late ballot

33 question committee contribution, as defined in Section 1 of this
34 chapter, shall file a report with the director. The recipient of the
35 late contribution shall report the candidate's or committee's full
36 name and address, the date received and the amount of the late
37 contribution, and whether the contribution was made in the form
38 of a loan. The recipient shall also report the full name of the con-
39 tributor, his or her residential address, occupation, and the name
40 of his or her employer, or if self-employed, the name of the busi-
41 ness. In the case of a non-monetary contribution, the recipient
42 shall disclose a description of the contribution.

43 (2) A late candidate contribution or late ballot question com-
44 mittee contribution shall be reported electronically by the recip-
45 ient by midnight of the day following its receipt. A late candidate
46 contribution or late ballot question committee contribution shall
47 be reported on subsequent campaign disclosure reports without
48 regard to reports filed pursuant to this section.

49 (3) A late candidate contribution or late ballot question com-
50 mittee contribution need not be reported nor shall it be deemed
51 accepted if it is not cashed, negotiated, or deposited and is
52 returned to the contributor in its original form within 24 hours of
53 receipt.

54 (4) A report filed pursuant to this section shall be in addition to
55 any other campaign disclosure reports required to be filed by this
56 chapter.

1 SECTION 4. (a) Section 1 of Chapter 55 is hereby amended by
2 inserting the following definition: "Independent expenditure" is
3 an expenditure that expressly advocates the election or defeat of a
4 clearly identified candidate which is made without cooperation or
5 consultation with any candidate, or a nonelected political com-
6 mittee organized on behalf of a candidate, or any agent of a candi-
7 date and which is not made in concert with, or at the request or
8 suggestion of, any candidate, or any nonelected political com-
9 mittee organized on behalf of a candidate or agent of such candi-
10 date.

11 (b) Section 1 of Chapter 55 is hereby amended by inserting the
12 following definition:

13 “Late independent expenditure” is an independent expenditure
14 or expenditures in an aggregate amount exceeding \$1000 that is
15 made after the 8th day, but more than 24 hours before the date of
16 the election.

17 (c) Section 18A of Chapter 55 is hereby amended by striking in
18 line 7 the word “business.”

19 (d) Section 18A of Chapter 55 is hereby amended by striking
20 lines 15 to 23.

21 (e) Section 18A of Chapter 55 is hereby amended by inserting
22 in line 5 after the word director the following, “of the Office of
23 Campaign and Political Finance, in accordance with
24 Section 18C.” Section 18A is also amended by inserting after
25 line 14 the following:

26 Any individual, group or association not defined as a political
27 committee who makes a late independent expenditure or expendi-
28 tures, as defined in Section 1, shall file with the Director in accor-
29 dance with Section 18C, on a form prescribed by the Director, a
30 report stating the name and address of the individual, group or
31 association making the expenditure or expenditures; the name of
32 the candidate or candidates whose election or defeat the expendi-
33 ture promoted; the name and address of the person or persons to
34 whom the expenditure or expenditures were made; and the total
35 amount or value; the purpose and the date of the expenditure or
36 expenditures. Such reports shall be filed by midnight of the day
37 following the date that such expenditure or expenditures are made.
38 After this initial report is filed, an additional report or reports
39 shall be filed with the Director in the same manner by midnight of
40 the day following the date that any additional independent expen-
41 ditures in an aggregate amount exceeding \$1,000 are made by any
42 individual, group or association not defined as a political com-
43 mittee with respect to the same election as that to which the initial
44 report relates.

45 Violation of any provision of this section or section 18C shall
46 be punished by imprisonment for not more than one year or by a
47 fine of not more than five thousand dollars, or both.

48 (f) Section 18C of Chapter 55 is hereby amended by striking in
49 subsection (b) the words “individuals and political committees”
50 and inserting in place thereof the words “individuals, political

51 committees, groups and associations”. Section 18C is further
52 amended by inserting after section (b)(3) the following:

53 (4) Every individual, group, or association not defined as a
54 political committee required by Section 18A to file disclosure
55 reports with the Director.

56 (g) Section 39 of Chapter 56 is amended by striking out lines
57 one to fourteen and inserting in place thereof: No person, group,
58 organization or association shall publish or broadcast or cause to
59 be published or broadcast in a newspaper, periodical, radio broad-
60 cast, television broadcast, including cable or other means of elec-
61 tronic dissemination, any paid advertisement designed or tending
62 to aid, injure, or defeat any candidate for public office or any
63 question submitted to the voters, unless the name of the chairman
64 or secretary or the names of two officers of the political or other
65 organization advertising the same, or the name of one or more
66 persons eighteen years of age or older who are responsible
67 therefor, with the residence and the street and number thereof, of
68 each such person eighteen years of age or older appears therein in
69 the case of any of the aforementioned visual media in a clearly
70 visible and prominent typeface and in the case of a radio broad-
71 cast clearly audible statement; provided, however, that each such
72 person eighteen years of age or older has signed his name in the
73 presence of a witness to the following statement authorizing the
74 insertion or broadcast of such advertisement. The statement shall
75 be retained by the newspaper, periodical, radio broadcast, televi-
76 sion broadcast, including cable, for not less than one year, shall be
77 available to any person upon request, and shall be in substantially
78 the following form:

79 (h) If any of section 39 of Chapter 56 shall be deemed unconsti-
80 tutional, it shall be struck without rendering the remaining sec-
81 tions unconstitutional.

1 SECTION 5. Section 7A(a)(1) of Chapter 55 of the General
2 Laws of the 2000 Official Edition is hereby amended in line 4, by
3 striking the word “five hundred” and inserting in place thereof,
4 the words “one thousand”. Section 7A(b) of Chapter 55 is
5 amended in line 26, by striking the word “two” and inserting in
6 place thereof, the word “one”. Section 7A of Chapter 55 is further

7 amended in line 29 by striking the word “two” and inserting in
8 place thereof, the word, “one”.

1 SECTION 6. Section 18A of Chapter 55 is hereby amended by
2 adding in line 5 after the word “director” the following, “of Office
3 of Campaign and Political Finance, as outline in 55:18C”.
4 Section 18A is also amended by inserting after line 23 the
5 following:

6 Any person, group or association that makes or contracts to
7 make independent expenditures aggregating \$1,000 or more after
8 the 20th day, but more than 24 hours, before the date of an elec-
9 tion shall file a report describing the expenditures within 24 hours.

10 After a person files a report as outline in (a), the person shall
11 file an additional report within 24 hours after each time the person
12 makes or contracts to make independent expenditures aggregating
13 an additional \$1,000 with respect to the same election as that to
14 which the initial report relates.

1 SECTION 7. Section 18C of Chapter 55 is amended by
2 inserting after section (b)(3) the following:

3 (4) Every individual, group, or association who makes an inde-
4 pendent expenditure or expenditures in an aggregate amount
5 exceeding two hundred and fifty dollars during any calendar year
6 for the purpose of promoting the election or defeat of any candi-
7 date or candidates.

8 (5) Any person, group, or association that makes or contracts to
9 make independent expenditures aggregating \$1,000 or more after
10 the 20th day, but more than 24 hours, before the date of an elec-
11 tion shall file a report describing the expenditures within 24 hours.

12 (6) After a person files a report as outline in (a), the person
13 shall file an additional report within 24 hours after each time the
14 person makes or contracts to make independent expenditures
15 aggregating an additional \$1,000 with respect to the same election
16 as that to which the initial report relates.

1 SECTION 8. Section 39 of Chapter 56 is amended by inserting
2 after the word “periodical” the words “,or broadcast or pay to
3 broadcast”. Section 39 is further amended in line 13 by inserting
4 after the word “periodical” the word, “broadcast station”.

5 Section 39 is further amended in line 28 by inserting after the
6 word “periodical” the words “or broadcast station”.

1 SECTION 9. If any of section shall be deemed unconstitutional,
2 it shall be struck without rendering the remaining sections uncon-
3 stitutional.